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SUBJECT: MiG JETFIGHTERS: PASAT CASE RISES FROM THE ASHES

REFS: A. Chisinau 0580, B. 07 Chisinau 0861

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1. (SBU) Summary: Former Minister of Defense Valeriu Pasat could be in the dock again in July, after the Supreme Court quashed his July 2007 acquittal in the case of Pasat's allegedly illegal sale of MiG 29s to the U.S. The court's decision, and a dissenting opinion, both criticized the 2007 decision. End summary.

2. (SBU) On April 2, 2008, the Supreme Court of Justice (SCJ), following an appeal by the prosecution, cancelled the July 9, 2007, Court of Appeals' verdict that Pasat was not guilty. (Note: Pasat's defense lawyers successfully used testimony by former U.S. Ambassador Stewart to argue that Pasat's sale of the MiGs was a treaty obligation and not a commercial transaction. End note.) Under Moldovan law, Pasat, now in Moscow, reverts to his status as a convicted criminal. The re-opened case will be examined again by the Court of Appeals starting July 3, 2008. If Pasat does not return to Moldova, he will be tried in absentia. Moldovan authorities will also request his extradition from Russia. If Pasat does return, he could be arrested for pending cases of smuggling and conspiracy to commit assassination and mount a coup d'etat.

3. (SBU) The SCJ majority decision, and a minority dissent, copies of which we received recently, both criticized the July 2007 verdict. The majority stated that the appeal that led to the 2007 decision should never have been admitted, because the Appeals Court violated retrial procedures and did not respect earlier SCJ decisions. The minority opinion stated that the July 2007 verdict wrongly ignored defense motions regarding Pasat's right to be presumed innocent. The dissenting judges also argued, as have Pasat's lawyers since the first trial in 2005, that Pasat was acting in accordance with several treaties and agreements, particularly a 1997 agreement between the Moldovan Ministry of Defense and U.S. Department of Defense regarding cooperation for the prevention of proliferation of weapons of mass destruction, and a 1997 agreement between the U.S and Moldova that specified the price of the exported jets.

4. (SBU) Comment: We find the timing of the reopened case interesting. Observers attributed Pasat's release in 2007 (ref B) to a Moscow demand for his release in return for a lifting of the wine ban, or to Moldova's desire to look better in the light of losses at the European Court of Human Rights (ECHR). The wine ban, however, is over, and Moldova continues to lose cases at the ECHR. Contributing factors to the decision could include: President Voronin's well-known animus towards Pasat and his "creature," PLDM party leader Vlad Filat (ref A), and the President's desire to impose his will on the judiciary. Or, given the complexities of the case, the unhappiness of majority and dissenting SCJ opinions regarding the 2007 case, and a certain amount of competition between the SCJ and the Appeals Court, the SCJ may just be having second thoughts. End comment.

